

**PARTICIPATING ENTITY SERVICES AGREEMENT FOR THE  
STATEWIDE AUTOMATED VICTIM NOTIFICATION SERVICE (SAVNS)**

**Contract No. 20192044900-520-01**

WHEREAS, the Office of the Attorney General (OAG) is the Texas State agency tasked with certifying a statewide vendor to provide a Statewide Automated Victim Notification Service (SAVNS) to a variety of political subdivisions of the State of Texas, including counties, county Sheriffs, clerks and attorneys, district attorneys, and courts. (“Participating Entities”)

WHEREAS OAG solicited offers to perform the development, implementation and execution of a Statewide Automated Victim Notification System (SAVNS) on behalf of the various Participating Entities and accepted the offer of Appriss Inc. in response to the Request for Offer (RFO) for SAVNS, **RFO #302-19-SAVNS, dated March 11, 2019;**

WHEREAS OAG has certified and contracted with **Appriss Inc. (“Vendor”)** as the statewide vendor to provide SAVNS to each of the Participating Entities (“OAG Certification Agreement”) a copy of which is attached hereto as Exhibit A;

NOW, THEREFORE, THIS CONTRACT is entered into by and between Webb County, Texas (“Named Entity”) as a Participating Entity and VENDOR. Named Entity and VENDOR may be referred to in this Contract (“Contract”) individually as “Party” or collectively as “Parties.” The Parties, in consideration of their respective promises, agreements, and covenants contained and recited herein, hereby agree to the mutual obligations and performances described in this Contract as follows:

**SECTION 1: CONTRACT TERM.** This Contract shall commence on September 1, 2019 or on the date the final signature is affixed hereto, whichever is later (“Effective Date”) and shall terminate on August 31, 2020. (“Initial Term”). This Contract may be renewed for four (4) additional one (1) year renewal terms (each a “Renewal Term”), only to the extent the OAG Certification Contract, attached hereto as Exhibit A, remains in effect, and in the sole and absolute discretion of Named Entity. If renewed, any Renewal Term shall begin on September 1 and end on August 31, always coinciding with the State’s fiscal year. Each such Renewal Term shall be subject to all specifications and terms and conditions of this Contract, the OAG Certification Contract, and the Incorporated Documents as defined in Section 2 below.

The Initial Term collectively with all Renewal Terms and all total extensions of services hereunder shall constitute the “Term” of the Agreement.

**SECTION 2: CONTRACT DOCUMENTS.**

Vendor and Named Entity agree to be bound by the provisions contained in the following documents (“Incorporated Documents”), which describe the required performances in more detail and are incorporated by reference herein in their entirety in descending order of precedence:

1. Special Provisions and Negotiated Terms (“Special Provisions”) attached hereto and incorporated by reference;
2. This Contract;
3. OAG Certification Agreement including all attachments, and Addenda not attached hereto but known to and in the possession of both Parties and incorporated herein by reference;
4. OAG Standard Terms and Conditions as attached to the RFO, not attached hereto but known to and in the possession of both Parties and incorporated herein by reference;
5. The RFO #302-19-SAVNS, dated March 11, 2019 including all posted documents, attachments, and Addenda (“RFO”), not attached hereto but known to and in the possession of both Parties and incorporated herein by reference.
6. Vendor written response to submission to the RFO, as accepted, not attached hereto but known to and in the possession of both Parties and incorporated herein by reference (“Vendor Response”)

however the Vendor Response as incorporated herein shall be considered to exclude Table 8 of the Response (p. 31) and the Proposed Exceptions to Exhibit A, Exhibit B, and Exhibit C of the Response (pp. 35-125).

If there is, and to the extent of, any conflict between the Incorporated Documents, such conflict will be resolved according to the order of precedence as set forth above. Capitalized terms used herein and not otherwise defined shall have the same meaning as in the applicable Incorporated Document.

**SECTION 3: SERVICES TO BE PERFORMED BY VENDOR.**

3.1 **Project.** Vendor agrees to configure, operate, maintain, support and provide Named Entity access to the SAVNS system as set forth in the RFO and the Vendor Response, (collectively the “Scope of Work” or “SOW”) which shall meet all of the requirements set forth in Section 4 of the RFO and Section 2 of the OAG Certification Agreement, all in accordance with the requirements of the Incorporated Documents referenced in Section 2 (“Project”).

3.2 **Scope of Services.** This Project includes but is not limited to the following services (collectively the “Participating Entity Services”):

(a) **VINE® (Victim Information and Notification Everyday).** VINE makes it easy for victims and concerned citizens to obtain timely information about criminal cases and the custody status of offenders held in local jails or state prisons. There are two versions of VINE that are currently supported by the Vendor: “Classic VINE” and “Enhanced VINE.” Appriss has been in the process of migrating states from the Classic VINE platform to the entirely new Enhanced VINE platform since 2016. Enhanced VINE offers a new experience, going beyond notifications, and facilitating a greater degree of information sharing between public servants, victims, and service providers. It offers a suite of new and augmented features, incorporating self-service functionality, and providing the end-user with the ability to select preferred pathways of communication. The new platform brings transformative benefits to victims and victim service providers alike. Appriss’s long-term plan is to migrate all states to the Enhanced VINE technology platform to better serve the growing needs of victims of crime, victim advocates, law enforcement and criminal justice professionals.

(b) **VINE® Courts.** VINE Courts is a fully automated service that keeps crime victims and criminal justice professionals informed regarding the progress of their court cases. Users can access court information around the clock by calling a toll-free telephone number or logging on to www.vinelink.com. They can also register to be notified by phone, e-mail, text message, or TTY about upcoming court and hearing dates related to criminal justice proceedings, cancellations, continuances, disposition changes, and other events.

(c) “VINE Software” means VINE® and VINE® Courts (as detailed above and within the Vendor Response), including all designs, documents, inventions, software, copyrightable material, patentable and unpatentable subject matter, and all modifications, improvements, upgrades and derivative works made thereto.

(d) Vendor shall provide Named Entity access to VINE® and VINE® Courts as outlined in Section 3.2(d) and pursuant to the requirements of the Incorporated Documents and at the rate included in the Pricing Index, incorporated herein as Exhibit B, for the term of this Contract. Vendor shall ensure Named Entity has access to the Classic VINE Platform upon commencement of this Contract but shall migrate Named Entity to the Enhanced VINE platform within the Term of this Contract pursuant to the schedule agreed by Vendor and OAG under the terms of the OAG Certification Agreement.

**Named Entity Participating Entities**

County Jail [Yes] | District Court [Yes] | County Court [No]

**3.3** Ownership of Vendor Intellectual Property; Licenses. Vendor retains all ownership rights in the VINE Software and all documents, designs, inventions, copyrightable material, patentable and unpatentable subject matter and other tangible materials authored or prepared by the Vendor (the “Intellectual Property”) in connection with the Services. Vendor hereby grants the OAG during the term of this Agreement, a limited, non-exclusive, non-transferable, non-sublicensable license to use the VINE Software in connection with the provision by Vendor of the VINE Services for the OAG’s internal purposes only. Nothing herein shall grant the OAG a license to the source code of the VINE Software. Notwithstanding the foregoing, all documents, reports, plans, copyrightable material, patentable and unpatentable subject matter and other tangible materials authored or prepared by the Vendor and required to be delivered to OAG by the Incorporated Documents shall be subject to Article V of the OAG Standard Terms and Conditions.

#### **SECTION 4: SCHEDULE**

4.1 Time is of the Essence. Time is of the essence in rendering of Participating Entity Services required by this Contract.

4.2 Performance Schedule. The Project shall be performed by Vendor according to a schedule to be mutually agreed by the Parties (“Schedule”) which shall set forth the required delivery dates of each report, plan, or other deliverable as required by the Incorporated Documents.

#### **SECTION 5: COMPENSATION AND INVOICING**

5.1 Payments for Services Rendered. The Parties stipulate and agree that OAG is the statutory party charged with administering and providing grant funds to Participating Entities on a reimbursement basis for the Participating Entity Services rendered by the Vendor. Accordingly, OAG shall not be directly responsible for any payment to Vendor for Participating Entity Services provided to Named Entity hereunder. All payments for such Participating Entity Services shall be made by Named Entity in accordance with the agreed pricing index (“Agreed Pricing Index”) incorporated herein as Exhibit B and pursuant to the terms of this Contract.

5.2 Recurring Fees. The Parties stipulate and agree that the Named Entity’s total amount of compensation to be paid to Vendor in consideration of full, satisfactory performance of all Vendor’s duties, services and obligations as set forth in this Contract, shall be billed on a recurring quarterly basis, in accordance with the Agreed Pricing Index, and not to exceed \$7,542.58 per calendar quarter. (“Quarterly Fee”).

5.3 Invoicing. The Participating Entity Services for the Project shall be performed for the Quarterly Fee, which will be billed and invoiced in accordance with the Agreed Pricing Index and pursuant to the terms of this Contract and the RFO. Invoices will contain all pertinent information such as this Contract number, the dates of Services rendered, and any outages or performances issues as identified in Section 7 of this Contract.

5.4 Invoice Submission. Prior to authorizing payment to Vendor, Named Entity shall evaluate Vendor’s performance using the performance standards set forth in the SOW. Vendor shall provide invoices for Participating Entity Services no later than the 15th day following the end of the prior billing quarter in which the Participating Entity Services are rendered. No payment whatsoever shall be made under this Contract without the prior submission of detailed, correct invoices. By submission of the invoices, Vendor is warranting the following: (1) its invoices have been carefully reviewed to ensure that all invoiced services have been performed or delivered; (2) that the Participating Entity Services have been performed in compliance with all terms of the Contract and Incorporated Documents; and (3) all relevant performance and deliverables associated with such invoice have been successfully completed, accepted and all supporting documentation is attached. Upon the request of Named Entity, Vendor agrees to submit any additional documentation or explanation Named Entity may reasonably require. Subject to the foregoing, Named Entity must make all payments in accordance with the Texas Prompt Payment Act.

5.5 Appropriated Funds. Payments under this Contract are subject to the availability of appropriated funds. Whereas OAG provides grant dollars to the Named Entity as a reimbursement of the Quarterly Fees due hereunder, Vendor acknowledges and agrees that payments for Participating Entity Services provided under this Contract are contingent upon OAG's receipt of funds appropriated by the Texas Legislature.

## **SECTION 6: ADDITIONAL SERVICES**

6.1 Additional Services. Named Entity may require the Vendor to perform additional services from among the optional services that are set forth in the SOW which are not included in the Participating Entity Services required under this Contract ("Additional Services"). Vendor shall offer any such Additional Services at the same rate as proposed in Vendor's Pricing Submission as attached and incorporated into the Vendor's Response.

6.2 Additional Services to be Mutually Agreed. No work or services shall commence, or products provided, unless and until the applicable fees, and all other impacts on the Project and Schedule as specified by Vendor are mutually agreed upon, in writing, by Named Entity and Vendor. No Additional Services or any applicable fees associated therewith shall be deemed to modify this Contract or obligations between Named Entity and Vendor except to the extent the Additional Services are mutually agreed upon, in advance in writing, and by both Named Entity and Vendor.

6.3 Liability for Additional Services. Vendor acknowledges and agrees that any Additional Services provided under this Contract are the sole responsibility of Named Entity. Any grant dollars issued by the OAG to Named Entity shall be utilized solely as a reimbursement for the Quarterly Fees incurred for Vendor's provision of the Participating Entity Services. OAG grant funds may not be used or obligated for any Additional Services provided hereunder.

## **SECTION 7: PERFORMANCE REPORTING AND REMEDIES**

### **7.1 Performance Reports.**

7.1.1 Project(s) Reporting. Pursuant to Section 4.2 of this Contract, Named Entity and Vendor shall agree on a Schedule to perform the Project which shall set forth the dates of each report, plan, or other deliverable as required by the Incorporated Documents. Notwithstanding the foregoing, Vendor shall provide Named Entity and/or the OAG with monthly written progress reports ("Progress Reports") of the Project's performance, which shall, at minimum, identify any problems encountered or still outstanding with an explanation of the cause and resolution of the problem or how the problem will be resolved. Additional performance related measurables shall be agreed upon between Named Entity and Vendor. For the avoidance of doubt, Vendor shall only provide Progress Reports related to implementation of the Project or unique projects for Named Entity. Progress Reports shall not be required for any portion of the Project already implemented as of the Effective Date.

7.1.2 Service Reporting. Upon Named Entity's written request, the Vendor, shall provide a report that includes the following national platform data for the prior month: SAVNS system down time, including the SAVNS core system, interface services, and notification interfaces.

7.2 Performance Remedies. In the event the Participating Entity Services provided by Vendor hereunder do not maintain a reliable 99.9% uptime-performance each calendar month for the SAVNS core system, Named Entity interface services, and notification interfaces, the Named Entity may withhold any Quarterly Fee due to the Vendor funds under Section 5 of this Contract based on a pro-rata amount equal to the duration of the outage for any prior billing quarter. The amount of withholding shall be calculated on a proportional amount for all Participating Entity Services provided to Named Entity in the billing quarter in which the monthly 99.9% uptime-performance requirement was not met. Accordingly, any outage in any portion of the SAVNS core system, Named Entity interface services, and notification interfaces for registered parties, shall be counted against the 99.9% uptime performance requirement.

Notwithstanding the foregoing, the Vendor shall not be responsible due to any delay caused by, and shall not have its uptime-performance impacted by: schedule amendments requested by the OAG (including any requests of Named Entity and any third party vendors of the OAG or the Named Entity); delays as the result of activity that is the responsibility of the OAG; delays that are otherwise agreed upon by the parties; any other delay not specifically addressed herein but that is otherwise caused by the acts or omissions of the OAG, Named Entity or any third party vendors of the OAG and Named Entity; and any delays caused by a Force Majeure Event as defined in the Section 15.10 of the OAG Standard Terms and Conditions.

## **SECTION 8: WARRANTIES**

8.1 Vendor Warranties. In addition to any warranty obligations in the Incorporated Documents, Vendor hereby represents and warrants:

- (a) that Vendor shall perform the Project with the professional skill and care ordinarily provided by comparable professionals in the same industry;
- (b) that each of the Vendor employees and agents assigned to perform Vendor's obligations under this Contract and Incorporated Documents, shall have the skill and training to perform the Project in accordance with the foregoing standard of care, and that all work shall be produced in a professional and workmanlike manner;
- (c) that the SAVNS system shall materially conform to the requirements as set forth in this Contract, and in the SOW and Incorporated Documents;
- (d) that all deliverables provided hereunder shall materially conform to the requirements as set forth in this Contract, and in the SOW and Incorporated Documents;
- (e) that all Project performance and deliverables provided under the Contract are, and will be, free of all liens, claims and other restrictions, and that Named Entity's use and possession of such deliverables will not violate the terms or conditions of any license, confidentiality agreement, non-competition agreement, employment agreement or any other agreement to which Vendor, its agents, officers, employees or subcontractors may be subject;
- (f) that Vendor has the right to develop and assign all ownership rights in the deliverables to OAG as contemplated under this Contract, free from infringement claims, free from violations of unfair competition law, and free from violations of any other contract or law; and
- (g) that Vendor will implement reasonable and appropriate measures to prevent unauthorized disclosure or exposure of Named Entity Protected Data during Vendor's performance of the Participating Entity Services due under this Contract and the Incorporated Documents.

These representations and warranties are essential and material to Named Entity's willingness to enter into this Contract.

8.2 Warranty of Law. Vendor warrants and represents that to the best of its knowledge: (i) Vendor has full authority to enter into this Contract and to consummate the transactions contemplated hereby and (ii) this Contract is not prohibited by any other agreement to which Vendor is a party or by which it may be bound (the "Legal Warranty"). In the event of a breach of the Legal Warranty, Vendor shall indemnify and hold harmless Named Entity from and against any and all losses, damages, causes of action, claims, demands, and expenses (including reasonable legal fees and expenses) incurred by Named Entity, directly arising out of or resulting from said breach.

## **SECTION 9: DATA PROTECTION AND INFORMATION SECURITY**

9.1 Definitions. Capitalized terms used herein shall have the meanings set forth in this Section 9.

(a) “Authorized Employees” shall mean Vendor’s employees who have a need to know or otherwise access Named Entity Protected Data to enable Vendor to perform its obligations under this Contract or any of the Incorporated Documents.

(b) “Authorized Persons” shall mean (i) Authorized Employees; and (ii) Vendor’s contractors or agents, as each is specified on Exhibit C to this Contract who have a need to know or otherwise access Named Entity Protected Data to enable Vendor to perform its obligations under this Contract or any of the Incorporated Documents, and who are bound in writing by confidentiality obligations sufficient to protect Named Entity Protected Data in accordance with the terms and conditions of this Contract.

(c) “Named Entity Protected Data” shall mean all documents, reports, data, records, forms, and other materials obtained by Vendor from the Named Entity or is otherwise received by Vendor from any person or entity registered to receive notifications from the SAVNS system, as a result of providing the Participating Entity Services as required under this Contract or any of the Incorporated Documents which includes personally identifiable information, federal tax information, personal health information, criminal justice information, or any information that is classified as confidential or sensitive by federal or state law, by agency policy, or is defined as "Personal Identifying Information" under Texas Business and Commerce Code §521.002(a)(1) or "Sensitive Personal Information" as defined by Texas Business and Commerce Code §521.002(a)(2) or any other data or information which (i) has been marked as confidential by any party; (ii) whose confidential nature has been made known to the Vendor Named Entity or any individual registered to receive notifications under the SAVNS system; or (iii) that due to their character and nature, a reasonable person under like circumstances would treat as confidential.

(d) “Personal Identifiable Information” shall have the meaning set forth in Texas Business and Commerce Code §521.002(a)(1).

(e) “Named Entity’s Data” shall mean all documents, reports, data, records, forms, and other materials obtained by Vendor from Named Entity or is otherwise received by Vendor as a result of providing the Participating Entity Services as required under this Contract or any of the Incorporated Documents, without regard to whether such data includes the type of information included in the definition of Named Entity Protected Data.

(f) “Security Breach” means (i) any act or omission that materially compromises either the security, confidentiality or integrity of Named Entity Protected Data, or the physical, technical, administrative or organizational safeguards put in place by Vendor or any Authorized Persons that relate to the protection of the security, confidentiality or integrity of Named Entity Protected Data, (ii) receipt of a complaint in relation to the privacy practices of Vendor or any Authorized Persons or a breach or alleged breach of this Contract relating to such privacy practices.

(f) “Sensitive Personal Information” shall have the meaning set forth in Texas Business and Commerce Code §521.002(a)(2).

9.2 Standard of Care. (a) Vendor acknowledges and agrees that, during the course of its engagement by Named Entity, Vendor may receive or have access to Named Entity Protected Data. Vendor shall comply with the terms and conditions set forth in this Contract, the RFO, and OAG Information Security Standards (Attachment 4 to the RFO) in its collection, receipt, transmission, storage, disposal, use and disclosure of both Named Entity Protected Data and be responsible for the unauthorized collection, receipt, transmission, access, storage, disposal, use and disclosure of Named Entity Protected Data under its control or in its possession by

all Authorized Employees and/or Authorized Persons. Vendor shall be responsible for and remain liable to Named Entity for the actions and omissions of all Authorized Persons that are not Authorized Employees concerning the treatment of Named Entity Protected Data as if they were Vendor's own actions and omissions.

- (b) In recognition of the foregoing, Vendor agrees and covenants that it shall:
  - (i) keep and maintain all Named Entity Protected Data in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use or disclosure;
  - (ii) use and disclose Named Entity Protected Data solely and exclusively for the purposes for which the Named Entity Protected Data, or access to it, is provided pursuant to the terms and conditions of this Contract, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available Named Entity Protected Data for Vendor's own purposes or for the benefit of anyone other than the OAG or Named Entity in each case, without Named Entity's prior written consent or as permitted in subsection (c) below; and
  - (iii) not, directly or indirectly, disclose Named Entity Protected Data to any person or entity other than its Authorized Employees and/or Authorized Persons ("Unauthorized Third Party") without the prior express written consent from Named Entity, unless and to the extent required by applicable law or court order in which case, Vendor shall (1) use best efforts to notify OAG before such disclosure or as soon thereafter as reasonably possible; (2) be responsible for and remain liable to OAG for the actions and omissions of any Unauthorized Third Party concerning the treatment of such Named Entity Protected Data as if they were Vendor's own actions and omissions; and (iii) require the Unauthorized Third Party that has access to Personal Information to execute a written agreement agreeing to comply with the terms and conditions of this Contract, the RFO, and the OAG Information Security Standards (Attachment 4 to the RFO) relating to the treatment of Named Entity Protected Data.
- (c) Notwithstanding anything in the foregoing subsection (b), Vendor is authorized by Named Entity to utilize Named Entity Protected Data only to the extent such Named Entity Protected Data is related to a Defendant or to a Defendant Status Change (hereinafter "SAVNS Defendant Data") for the limited purpose of providing or improving Vendor's own existing products and services identified in the Appriss Data Overview to Law Enforcement Agencies and Government Agencies. For the purposes of this paragraph, "utilize" includes, but is not limited to, receiving, maintaining, disseminating, retaining, or otherwise providing access to any information obtained or extrapolated from SAVNS Defendant data obtained under the SAVNS program. "Government Agency" means an organization created by or pursuant to the Constitution of the United States or the constitution of a state of the United States and operated for public purposes. The term "Government Agency" shall not include any quasi-governmental entity or government-sponsored enterprise or corporation. "Law Enforcement Agency" means a Government Agency or an organizational unit within a Government Agency with authority to enforce state or federal criminal laws, which includes, but is not limited to, prevention, detection, and investigation of crime, and the apprehension and incarceration of alleged offenders;
- (d) Nothing in this Section 9.2 shall be construed to limit Vendor's use of non-confidential data made available to the public or otherwise in the public domain.

9.3 Information Security. (a) Vendor represents and warrants that its collection, access, use, storage, disposal and disclosure of Named Entity Protected Data does and will comply with all applicable federal, state, and local privacy and data protection laws, as well as all other applicable regulations and directives, including but not limited to Texas Business and Commerce Code Chapter 521, Texas Administrative Code Chapter 202 and the Health Insurance Portability and Accountability of 1996 (HIPAA) and all amendments thereto.

(b) Without limiting Vendor's obligations under Section 9.3(a) above, Vendor shall implement administrative, physical and technical safeguards to protect Named Entity Protected Data. Vendor shall, upon request, submit to Named Entity security framework implemented in Vendor's organization, such as International Organization for Standardization's standards: ISO/IEC 27001:2013 ,Code of Practice for International Security Management, the Information Technology Library (ITIL) standards, the Control Objectives for Information and related Technology (COBIT) standards or other applicable industry standards for information security, and shall ensure that all such safeguards, including the manner in which Named Entity Protected Data is collected, accessed, used, stored, processed, disposed of and disclosed are in compliance with and in addition to the OAG Information Security Standards (Attachment 4 to the RFO).

(c) In addition to and inclusive of the requirements set forth in OAG Information Security Standards (Attachment 4 to the RFO), at a minimum, Vendor's safeguards for the protection of Named Entity Protected Data shall include: (i) limiting access of Named Entity Protected Data to Authorized Employees/Authorized Persons; (ii) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, device application, database and platform security; (iv) securing information transmission, storage and disposal; (v) implementing authentication and access controls within media, applications, operating systems and equipment; (vi) encrypting Sensitive Personal Information stored on any mobile media; (vii) encrypting Sensitive Personal Information transmitted over public or wireless networks; (viii) strictly segregating Named Entity Protected Data, and information from its other customers so that Named Entity Protected Data is not commingled with any other types of information; (ix) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with any applicable state or federal law; and (x) providing appropriate privacy and information security training to Vendor's employees, contractors, or agents.

(d) During the term of each Authorized Employee's employment by Vendor, Vendor shall at all times cause such Authorized Employees to abide strictly by Vendor's obligations under this Contract, the RFO, and the OAG Information Security Standards (Attachment 4 to the RFO). Upon Named Entity's written request, Vendor shall promptly identify for Named Entity in writing all Authorized Employees as of the date of such request.

#### 9.4 Security Breach Procedures.

(a) Vendor shall:

- (i) provide Named Entity with the name and contact information for an employee of Vendor who shall serve as Named Entity's primary security contact and shall be available to assist Named Entity twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a Security Breach;
- (ii) notify Named Entity of a Security Breach as soon as practicable, but no later than twenty-four (24) hours after Vendor becomes aware of it; and
- (iii) notify Named Entity of any Security Breaches by telephone at the following number: \_\_\_\_\_ and by e-mailing Named Entity with a read receipt at \_\_\_\_\_ and with a copy by e-mail to Vendor's primary business contact within Named Entity.

(b) Immediately following Vendor's notification to Named Entity of a Security Breach, the parties shall coordinate with each other to investigate the Security Breach. Vendor agrees to reasonably cooperate with Named Entity in Named Entity's handling of the matter, including, without limitation:

- (i) assisting with any investigation;
- (ii) providing Named Entity with physical access to the facilities and operations affected;
- (iii) facilitating interviews with Vendor's employees and others involved in the matter; and



- (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards, this Contract, the RFO Contract, the RFO, and the OAG Information Security Standards (Attachment 4 to the RFO) or as otherwise reasonably required by Named Entity.

(c) Vendor shall use best efforts to immediately remedy any Security Breach and prevent any further Security Breach at Vendor's expense in accordance with applicable privacy rights, laws, regulations and standards. Vendor shall reimburse Named Entity for actual costs incurred by Named Entity in responding to, and mitigating damages caused by, any Security Breach, including all costs of notice and/or remediation pursuant to Section 9.4(d).

(d) Vendor agrees that it shall not inform any third party of any Security Breach without first obtaining Named Entity's prior written consent, except to the extent required under Texas Business and Commerce Code Chapter 521 or any other applicable law, or as is otherwise required by the OAG under the OAG Certification Contract. Notwithstanding the foregoing, Vendor shall provide prior written notice to Named Entity of its intent to inform any third-party other than the OAG of any Security Breach and identify the applicable law the Vendor believes requires such disclosure.

(e) In the event of any Security Breach, Vendor shall promptly use its best efforts to prevent a recurrence of any such Security Breach.

9.5 Oversight of Security Compliance. Upon Named Entity's written request, to confirm compliance with this Contract, the RFO, the OAG Information Security Standards (Attachment 4 to the RFO) as well as any applicable laws and industry standards, Vendor shall promptly and accurately complete a written information security questionnaire provided by Named Entity or a third party on the Named Entity's behalf regarding Vendor's business practices and information technology environment in relation to all Named Entity Protected Data being handled and/or services being provided by Vendor to Named Entity or any of the Participating Entities pursuant to this Contract or the Incorporated Documents. Vendor shall fully cooperate with such inquiries. Named Entity shall treat the information provided by Vendor in the security questionnaire as Vendor's confidential, proprietary information under Section 10.1 below.

9.6 Return or Destruction of Named Entity Protected Data. At any time during the term of this Contract at the Named Entity's written request or upon the termination or expiration of this Contract for any reason, Vendor shall, and shall instruct all Authorized Persons to, promptly return to the Named Entity all copies, whether in written, electronic or other form or media, of Named Entity in its possession or the possession of such Authorized Persons, or securely dispose of all such copies, and certify in writing to the Named Entity that such Named Entity Protected Data has been returned to Named Entity or disposed of securely. Vendor shall comply with all reasonable directions provided by Named Entity with respect to the return or disposal of Named Entity Protected Data.

9.7 Equitable Relief. Vendor acknowledges that any material breach of its covenants or obligations set forth in this Section 9 may cause Named Entity irreparable harm for which monetary damages may not be adequate compensation and agrees that, in the event of such breach or threatened breach, Named Entity may be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which Named Entity may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Contract to the contrary.

9.8 Material Breach. Vendor's failure to comply with any of the provisions of this Section 9 is a material breach of this Contract. In such event, Named Entity may terminate the Contract for cause, effective immediately upon written notice to the Vendor without further liability or obligation to Named Entity. This immediate termination for cause shall be in addition to any rights to termination contemplated under Section 11.2(a) below and shall not be subject to any written notice or cure period required therein.

9.9 Indemnification. In addition to any of the other indemnification or hold harmless obligations of Vendor provided for within this Contract, the RFO or the OAG's Standard Terms and Conditions, Vendor shall also defend, indemnify and hold harmless the State of Texas and OAG, the Named Entity and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees (collectively the "Named Entity Indemnitees") from and against all losses, damages, deficiencies, actions, judgments, interest, awards, penalties, fines, reasonable costs or expenses, including reasonable attorneys' fees, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, arising out of or resulting from any third party claim against any Named Entity Indemnitee arising out of or resulting from Vendor's failure to comply with any of its obligations under this Section 9.

9.10 Ownership and Use of Named Entity's Data. Notwithstanding anything in this Contract to the contrary, nothing contained herein shall be construed to grant the Vendor any ownership rights in any Named Entity's data provided to Vendor in connection with this Contract, the SOW, or any of the Incorporated Documents. With the exception of information in the public domain, Vendor shall not sell, provide, or otherwise commercialize Named Entity's Data without the prior written consent of Named Entity. Vendor shall only use the Named Entity's Data in connection with the Participating Entity Services required hereunder and otherwise consistent with this Contract and the Incorporated Documents. Notwithstanding the foregoing, Vendor is authorized by Named Entity to utilize Named Entity Data only to the extent such Named Entity Data is related to a Defendant or to a Defendant Status Change (hereinafter "SAVNS Defendant Data") for the limited purpose of providing or improving Vendor's own existing products and services identified in the Appriss Data Overview to Law Enforcement Agencies and Government Agencies as attached to the Special Provisions. For the purposes of this paragraph, "utilize" includes, but is not limited to, receiving, maintaining, disseminating, retaining, or otherwise providing access to any information obtained or extrapolated from SAVNS Defendant data obtained under the SAVNS program. "Government Agency" means an organization created by or pursuant to the Constitution of the United States or the constitution of a state of the United States and operated for public purposes. The term "Government Agency" shall not include any quasi-governmental entity or government-sponsored enterprise or corporation. "Law Enforcement Agency" means a Government Agency or an organizational unit within a Government Agency with authority to enforce state or federal criminal laws, which includes, but is not limited to, prevention, detection, and investigation of crime, and the apprehension and incarceration of alleged offenders.

## **SECTION 10: CONFIDENTIALITY**

10.1 Named Entity's Responsibilities. Named Entity hereby agrees that (i) specific identified methodologies, materials, plans, or other proprietary information related to the development and implementation of the SAVNS system as provided by Vendor under this Contract shall be treated as confidential in nature and shall be subject to the various ownership provision of the Incorporated Documents; (ii) Named Entity shall implement reasonable and appropriate measures designed to secure the confidentiality of such confidential information, and (iii) except as permitted by the SOW and Section 10.2 of this Contract, none of such materials shall be in any way disclosed by Named Entity to any third party, in whole or in part, without the prior written consent of Vendor. If Named Entity becomes aware of the unauthorized possession of such materials, it shall promptly notify Vendor. Notwithstanding anything in this Contract to the contrary, any report, plan, or other deliverable required to be provided to Named Entity pursuant to the Incorporated Documents shall not be considered to be confidential in nature and Named Entity is under no obligation to maintain the confidentiality thereof.

10.2 Named Entity Compliance and Vendor Cooperation with Texas Public Information Act Requests. Notwithstanding any provisions of this Contract to the contrary, Vendor understands that Named Entity will comply with the Texas Public Information Act, Texas Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Named Entity agrees to notify Vendor in writing within a reasonable time, of a request for information related to Vendor's work under this Contract. Vendor will cooperate with Named Entity in the production of documents responsive to the request. Named

Entity will make a determination whether to submit a Public Information Act request to the Attorney General. Vendor will notify Named Entity General Counsel within twenty-four (24) hours of receipt of any third-party requests for information that was provided by the State of Texas for use in performing this Contract and all data and other information generated or otherwise. Vendor is required to make any information created or exchanged with Named Entity, the State of Texas, or any of its agencies pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.

10.3 Vendor's Responsibilities. Vendor hereby agrees that (i) any information related to the official business of Named Entity that Vendor obtains from Named Entity in the course of the performance of this Contract is the confidential and proprietary information of Named Entity, (ii) Vendor shall implement reasonable and appropriate measures designed to secure the confidentiality of such information, and (iii) such information shall not be in any way disclosed by Vendor to any third party, in whole or in part, without the prior written consent of Named Entity, which may be granted or withheld in its sole discretion. If Vendor becomes aware of the unauthorized possession of such information, it shall promptly notify Named Entity. Vendor shall also assist Named Entity with preventing the recurrence of such unauthorized possession and with any litigation against the third parties deemed necessary by Named Entity to protect its proprietary rights.

10.4 Exclusions. Each party shall be a receiving party ("Receiving Party") relative to the other party's confidential information. The provisions of this Section 10 ("Confidentiality") shall not apply to any information (i) that is in the public domain prior to the disclosure or that becomes part of the public domain, or otherwise becomes publicly known, by publication or otherwise, other than by way of a breach of this Contract by the Receiving Party, (ii) that was known to, or in the lawful possession of the Receiving Party without obligation, as the case may be, prior to the disclosure in connection with the Contract, (iii) that was disclosed to the Receiving Party by a third party who was in lawful possession of the information and who had the right to make such disclosure at the time of the disclosure, (iv) that was independently developed by the Receiving Party outside the scope of this Contract, or (v) that Receiving Party, is required to disclose by law or legal process, in which case Receiving Party shall notify the owning party so that action may be taken to protect the affected confidential information. Notwithstanding any other provision herein to the contrary, all provisions in this Section 10 are subject to the Public Information Act, as further described in the Contract. Further, nothing in this Section 10.4 shall be deemed to alter, limit, or otherwise modify any of Vendor's obligations related to the use and protection of Named Entity Protected Data pursuant to Section 9 of this Contract, the RFO, and OAG Information Security Standards (Attachment 4 to the RFO).

## **SECTION 11: TERMINATION**

11.1 Termination by Vendor. Vendor may terminate this Contract in Named Entity commits any material breach under this Contract and fails to remedy such breach within (30) days after written notice of such breach is delivered by Vendor to Named Entity.

11.2 Termination by Named Entity.

(a) *For Cause.* Named Entity shall have the right to terminate this Contract (reserving cumulatively all other rights and remedies under this Contract, the RFO, and the Incorporated Documents, in law and/or in equity) without further obligation or liability to Vendor if Vendor or any subcontractor to Vendor commits any material breach of this Contract and fails to remedy such breach within thirty (30) days after written notice by Named Entity to Vendor of such breach. Named Entity shall have the right to terminate this Contract effective immediately and without prior notice if Vendor goes into liquidation or files for bankruptcy.

(b) *Non-appropriations.* Named Entity may terminate this Contract if funds sufficient to pay its obligations under the Contract are not appropriated: i) by the governing body on behalf of local governments; ii) by the Texas legislature on behalf of the OAG; or iii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Vendor will be provided ten (10) calendar days written notice of intent to terminate. In

the event of such termination, the Named Entity will not be considered to be in default or breach under this Contract, nor shall Named Entity be liable for any further payments ordinarily due under this Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

(c) *For convenience.* Notwithstanding the foregoing or anything in this Contract or the Incorporated Documents to the contrary, Named Entity reserves the right to terminate the Contract at any time, in whole or in part, without penalty, by providing thirty (30) calendar days advance written notice to the Vendor, subject to the advance written approval of such termination by the OAG or in the event OAG determines that such termination is in its best interest or the best interest of the State of Texas or the Named Entity. In the event of such a notice of termination, Vendor shall, unless otherwise mutually agreed upon in writing, cease all work immediately. Named Entity shall be liable for payments limited only to the portion of work Named Entity authorized in writing and which the Vendor has completed, delivered to Named Entity per the Contract requirements, and which has been accepted by Named Entity as of the date of termination. Named Entity shall have no other liability or obligation to Vendor, including, without limitation, no liability for any costs of any kind associated with the termination.

11.3 Effect of Termination. Termination of this Contract shall not affect any rights and/or obligations of the parties which arose prior to any such termination and such rights and/or obligations shall survive any such termination. Upon termination, each party shall return the confidential property of the other party obtained under this Contract or the Incorporated Documents, as applicable, however excluding all Work Product as that is defined in OAG Standard Terms and Conditions, Article I, Definitions, produced pursuant to this Contract which shall remain the property of Named Entity. In addition, the confidentiality obligations of the parties in Section 11 (“Confidentiality”) shall survive the termination of this Contract.

## **SECTION 12: LIMITATIONS ON LIABILITY AND INDEMNITIES**

12.1 Limitation of Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS OF ANTICIPATED PROFITS OR REVENUES IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT.

12.2 Indemnification. In addition to the indemnification and hold harmless obligations of Vendor in this Contract included in Section 8.2 and Section 9.9 above, Vendor shall:

(a) DEFEND, INDEMNIFY AND HOLD HARMLESS NAMED ENTITY AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, LOSSES, DEMANDS, OR SUITS, AND ALL REASONABLE COSTS, ATTORNEY FEES, AND EXPENSES DIRECTLY ARISING OUT OF, IN CONNECTION WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS, NEGLIGENCE, OR WILLFUL MISCONDUCT OF THE VENDOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, SUPPLIERS, OR SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE TO ANY SUCH ACTION, CLAIM, DEMAND, OR SUIT SHALL BE COORDINATED BY VENDOR WITH NAMED ENTITY AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE ADVANCE, WRITTEN CONCURRENCE FROM NAMED ENTITY. THE VENDOR AND NAMED ENTITY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

(b) DEFEND, INDEMNIFY AND HOLD HARMLESS NAMED ENTITY AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADEMARKS, SERVICE MARKS, TRADE SECRETS AND ANY OTHER INTELLECTUAL PROPERTY OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH ANY DELIVERABLE PROVIDED HEREUNDER, THE WORK OR PERFORMANCE OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT, OR NAMED ENTITY’S USE OF ANY DELIVERABLE



14.4 Successors and Assigns. Neither party may assign this Contract in whole or part without the prior written consent of the other party. Any attempt to assign this Contract without the prior written consent of the other party is void and without legal effect, and such an attempt constitutes a material breach and grounds for termination by the other party. Subject to the foregoing, all of the terms, conditions, covenants and agreements contained herein shall inure to the benefit of, and be binding upon, any successor and any permitted assignees of the respective parties hereto. It is further understood and agreed that consent by either party to such assignment in one instance shall not constitute consent by the party to any other assignment. A transfer of corporate control, merger, sale of substantially all of a party's assets and the like shall be considered an assignment for these purposes.

14.5 Dispute Resolution. **[Intentionally left blank]**.

14.6 Governing Law. The validity, construction and performance of this Contract and the legal relations among the parties to this Contract shall be governed by and construed in accordance with the laws of the State of Texas without giving effect to its conflict of law principles. The venue of any suit arising under this Contract is fixed in any court of competent jurisdiction of Webb County, Texas.

14.7 Independent Contractor. Vendor, in performance of this Contract, is acting as an independent contractor. Vendor personnel (including personnel supplied by subcontractors) hereunder are not Named Entity's personnel or agents, and Vendor assumes full responsibility for their acts. Vendor shall be solely responsible for the payment of compensation of Vendor employees and contractors assigned to perform services hereunder, and such employees and contractors shall be informed that they are not entitled to the provision of any Named Entity employee benefits. Named Entity shall not be responsible for payment of worker's compensation, disability or other similar benefits, unemployment or other similar insurance or for withholding income or other similar taxes or social security for any Vendor employee, and such responsibility shall solely be that of Vendor.

14.8 Severability. In the event any one or more of the provisions of the Contract shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions of this Contract shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a provision, which, being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

14.9 Entire Agreement; Inconsistent Terms. This Contract, all exhibits, appendices, and schedules attached hereto and/or otherwise incorporated by reference herein, and the Incorporated Documents are the complete and exclusive statement of the agreement between the Named Entity and the Vendor, and supersede any and all other agreements, oral or written, between the parties. This Contract may not be modified except by written instrument signed by the Named Entity and by an authorized representative of the Vendor. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate the Vendor.

14.10 Counterparts. This Contract and other Incorporated Documents which are required to be duly executed, may be executed in counterparts and by the exchange of signatures by facsimile or PDF.

**[Signature Page Follows]**

**Appriss Inc. BY:**



Signature

11/4/2019

Date

Joshua P. Bruner

Name

EVP Operations & GM Victim Services & Programs

Title

**Named Entity BY:**

Signature

Date

Name

Title

**EXHIBITS TO THIS CONTRACT:**

*EXHIBIT A - Executed OAG Certification Agreement*

*EXHIBIT B – Agreed Pricing Index not attached hereto but known to and in the possession of both Parties and incorporated herein by reference*

*EXHIBIT C – Vendor’s List of Authorized Persons, not attached hereto but known to and in the possession of both Parties and incorporated herein by reference*